

# **EXHIBIT A**

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<p style="text-align: right;">2797</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE EASTERN DISTRICT OF VIRGINIA 3 RICHMOND DIVISION 4 5 ----- 6 ePLUS, INC. : Civil Action No.  : 3:09CV620 7 vs. :  : 8 LAWSON SOFTWARE, INC. : January 21, 2011  : 9 ----- 10 11 COMPLETE TRANSCRIPT OF THE JURY TRIAL 12 BEFORE THE HONORABLE ROBERT E. PAYNE 13 UNITED STATES DISTRICT JUDGE, AND A JURY 14 15 APPEARANCES: 16 Scott L. Robertson, Esquire 17 Michael G. Strapp, Esquire 18 Jennifer A. Albert, Esquire 19 David M. Young, Esquire 20 Goodwin Procter, LLP 21 901 New York Avenue NW 22 Suite 900 23 Washington, D.C. 20001 24 Craig T. Merritt, Esquire 25 Christian &amp; Barton, LLP 909 East Main Street Suite 1200 Richmond, Virginia 23219-3095 Counsel for the plaintiff  Peppy Peterson, RPR Official Court Reporter United States District Court</p>	<p style="text-align: right;">2799</p> <p>1 P R O C E E D I N G S 2 3 THE CLERK: Civil action number 3:09CV00620, ePlus, 4 Incorporated, versus Lawson Software, Incorporated. Mr. Scott 5 L. Robertson, Mr. Craig T. Merritt, Ms. Jennifer A. Albert, and 6 Mr. Michael G. Strapp represent the plaintiffs. 7 Mr. Daniel W. McDonald, Mr. Dabney J. Carr, IV, Ms. 8 Kirstin L. Stoll-DeBell, Mr. William D. Schultz, and Ms. Rachel 9 Hughey represent the defendant. Are counsel ready to proceed? 10 MR. ROBERTSON: Yes, Your Honor. 11 MR. McDONALD: Yes, Your Honor. 12 THE COURT: All right. We'll take plaintiff's JMOL 13 motion first. 14 MR. ROBERTSON: Good morning, Your Honor. 15 THE COURT: Good morning. 16 MR. ROBERTSON: I'm going to be arguing plaintiff's 17 judgment as a matter of law with respect to infringement, and 18 Ms. Albert will be addressing plaintiff's judgment as a matter 19 of law with respect to the invalidity issues. 20 Your Honor, Rule 50 provides that judgment as a 21 matter of law may be granted when a reasonable jury would not 22 have a legally sufficient evidentiary basis to find for the 23 party Lawson on that issue. ePlus moves for JMOL that Lawson 24 infringes all the asserted claims of the patents-in-suit, both 25 directly and indirectly, both through inducement of</p>
<p style="text-align: right;">2798</p> <p>1 APPEARANCES: (cont'g) 2 Dabney J. Carr, IV, Esquire 3 Troutman Sanders, LLP 4 Troutman Sanders Building 5 1001 Haxall Point 6 Richmond, Virginia 23219 7 Daniel W. McDonald, Esquire 8 Kirstin L. Stoll-DeBell, Esquire 9 William D. Schultz, Esquire 10 Merchant &amp; Gould, PC 11 80 South Eighth Street 12 Suite 3200 13 Minneapolis, Minnesota 55402 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">2800</p> <p>1 infringement and contributory infringement. 2 I'm not going to go through all the asserted claims, 3 Your Honor. I know Your Honor is familiar with them, and that 4 would just take up too much time, and I know we're pressed for 5 time here this morning with the Court's schedule this 6 afternoon, but let me hit a high point, first start off by 7 saying, we contend that the defendants non-infringement case in 8 this proceeding has been really based on misdirection, that 9 they have ignored the Court's claim construction with respect 10 to catalog. They rewrote the provision for published by a 11 vendor to suit their manufactured non-infringement positions. 12 It required the Court, I think midcourse through this 13 case, to issue the instruction with respect to published by a 14 vendor to bring some clarity to what the Court intended when it 15 gave its instruction with respect to what a catalog is. 16 It did not mean, as the defendant contended, that the 17 item data associated with the catalog could not be selected -- 18 or had to be selected by the customer or modified or deleted or 19 reformatted or be an entire catalog. That was never intended 20 by the Court, and its revised published-by-a-vendor 21 construction made that clear, and I think the arguments made on 22 that, the non-infringement arguments that were based on that 23 have no sound footing in the record on this case. 24 We believe that the best evidence in this case has 25 come from, indeed, Lawson's own witnesses and documents. Mr.</p>

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<p style="text-align: right;">2849</p> <p>1 THE COURT: Is that what the case holds? That's what</p> <p>2 this case holds -- that's what this case about the travel</p> <p>3 candle holds, that, in fact, there was no evidence that the</p> <p>4 travel candle was used in the infringing way.</p> <p>5 MR. ROBERTSON: There's ample evidence in this case</p> <p>6 that it's used in the infringing way, both from Mr.</p> <p>7 Christopherson and --</p> <p>8 THE COURT: Here's the bottom line. I'm the finder</p> <p>9 of the fact. I would clearly find that there is infringement</p> <p>10 of everything that Dr. Weaver said, that each system infringed</p> <p>11 each claim for the reasons he stated. There isn't any question</p> <p>12 that I would do that.</p> <p>13 But I'm not the finder of the fact. So under these</p> <p>14 facts, under the evidence in this case, don't I have to let the</p> <p>15 jury decide that case and then come back at the end of the day</p> <p>16 and see whether that's right? So what I'm inclined to do is</p> <p>17 reserve judgment on this motion, because I will tell you -- I</p> <p>18 personally am having real trouble deciding why there's any</p> <p>19 defense to infringement at all.</p> <p>20 MR. ROBERTSON: I understand.</p> <p>21 THE COURT: But I believe that I do have to let the</p> <p>22 case go to the jury subject to my ability to control that, and</p> <p>23 I'm going to take this motion under advisement, deny the motion</p> <p>24 of no infringement by Lawson, keep your motion under</p> <p>25 advisement.</p>	<p style="text-align: right;">2851</p> <p>1 THE COURT: All right.</p> <p>2 MS. HUGHEY: Hello, Your Honor. May it</p> <p>3 please the Court. Lawson moves for judgment as a</p> <p>4 matter of law on the issue of invalidity because a</p> <p>5 reasonable jury does not have a reasonable evidentiary</p> <p>6 basis to find for ePlus on the issue.</p> <p>7 At trial documents demonstrated and witnesses</p> <p>8 testified --</p> <p>9 THE COURT: Now, there are three grounds of</p> <p>10 invalidity. One is anticipation.</p> <p>11 MS. HUGHEY: Correct.</p> <p>12 THE COURT: One is obviousness.</p> <p>13 MS. HUGHEY: Correct.</p> <p>14 THE COURT: And the other is written</p> <p>15 description.</p> <p>16 MS. HUGHEY: No, Your Honor, Lawson is not</p> <p>17 asserting written description.</p> <p>18 THE COURT: That was there at one time.</p> <p>19 MS. HUGHEY: Correct.</p> <p>20 THE COURT: That's no longer there. So I</p> <p>21 don't need to deal with that one.</p> <p>22 MS. HUGHEY: Correct.</p> <p>23 THE COURT: So you have anticipation and</p> <p>24 obviousness.</p> <p>25 MS. HUGHEY: Correct, Your Honor. At trial</p>
<p style="text-align: right;">2850</p> <p>1 MR. ROBERTSON: I understand, Your Honor. Thank you.</p> <p>2 THE COURT: All right, now, invalidity. I believe</p> <p>3 that -- Ms. Hughey, are you doing that one, too?</p> <p>4 MS. HUGHEY: I am, Your Honor, and I promise to be</p> <p>5 much slower this time.</p> <p>6 THE COURT: Because if you don't, you're going to get</p> <p>7 knee-capped but not buy me.</p> <p>8 Let's see. Is this a good place for the court</p> <p>9 reporters to switch and for us to take a little recess?</p> <p>10</p> <p>11 (Recess taken.)</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">2852</p> <p>1 the documents demonstrated and the witnesses testified</p> <p>2 regarding the features and functionality of the prior</p> <p>3 art RIMS system disclosed in the '989 patent.</p> <p>4 THE COURT: Let's take the anticipation.</p> <p>5 What is it that anticipates?</p> <p>6 MS. HUGHEY: The RIMS system alone</p> <p>7 anticipates every single claim of the patents-in-suit.</p> <p>8 THE COURT: All right.</p> <p>9 MS. HUGHEY: In combination, the RIMS system</p> <p>10 and the TV/2 product render every single one of the</p> <p>11 claims of the patents-in-suit obvious.</p> <p>12 Dr. Shamos went through every single claim</p> <p>13 and explained both the anticipation and obviousness</p> <p>14 analysis. The evidence at trial further demonstrated</p> <p>15 that both systems are prior art.</p> <p>16 The combination of RIMS plus TV/2 renders</p> <p>17 every single asserted claim of the patents-in-suit</p> <p>18 obvious. The preferred embodiment disclosed in the</p> <p>19 patents is the combination of RIMS plus TV/2 and the</p> <p>20 Court's construction is consistent with that.</p> <p>21 The TV/2 literature specifically says to</p> <p>22 combine TV/2 with the parts ordering system and</p> <p>23 inventory management system. The RIMS system</p> <p>24 disclosed in the '989 patent was a part ordering and</p> <p>25 inventory management system.</p>

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1 MR. CARR: Exactly.

2 THE COURT: Absent evidence to the contrary.

3 MR. ROBERTSON: I'm not concerned about J-CON and PO

4 Writer. We're concerned about these other references that at

5 least the Court has taken under reservation on our JMOL that

6 may not be invalidating, but if it's a black box, we will never

7 know, and the Court will not be able to address the JMOL issue

8 that's still pending after the verdict.

9 THE COURT: All right. Anybody have anything else?

10 MR. CARR: Other than what is prior art is in the

11 instructions.

12 THE COURT: Yes.

13 MR. CARR: So that last concern, I don't see it.

14 THE COURT: I think it's a good idea to have them

15 separated out by anticipation and by obviousness, and you could

16 make their job easier by listing that which is contended to be

17 and have them say yes or no.

18 MR. ROBERTSON: We'll take a stab at that, Your

19 Honor, and we'll get it to them early tomorrow, like 6:00 a.m.

20 when you get up, Ms. Stoll-DeBell.

21 MS. STOLL-DeBELL: Not tomorrow.

22 MR. CARR: Is that something you need tomorrow?

23 THE COURT: I'm going -- I don't need it tomorrow

24 because my secretary is not going to be doing it. She is going

25 to be doing the instructions, and she's coming in tomorrow to

1 will go back to the jury.

2 THE COURT: I asked you to do a list of the things.

3 MR. CARR: We're very close. We've been working with

4 Mr. Neal on that. We only have two issues that we want to

5 bring to you. The first is the license agreements. There are,

6 I think, four or five plaintiff's exhibits that are the license

7 agreements.

8 THE COURT: You mean --

9 MR. CARR: SAP, Ariba, Verian, SciQuest, Perfect

10 Commerce. We don't feel that those should go back to the jury.

11 Remember you dealt with those exhibits that were on the screen

12 and you took them off I screen, I think it was yesterday?

13 THE COURT: Yes, I remember. Why do they need to go

14 back to the jury?

15 MR. CARR: Exactly.

16 MR. ROBERTSON: Your Honor, we want them to see the

17 licensing terms, what was cross-licensed, and we've offered to

18 redact anything that has to do with the litigation, so all they

19 see is the patents, the consideration we got in response, all

20 of the Ariba licenses -- excuse me, patents that they had, so

21 the jury understands the significance of the commercial

22 success. They have a document in their hand, and they can see

23 the numbers that resulted --

24 THE COURT: You'll redact the things that have to do

25 --

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1 do that.

2 MR. CARR: If we get you the verdict form over the

3 weekend, that would be sufficient because we're going to be

4 doing it.

5 THE COURT: As long as you all -- you understand what

6 I'm saying to do?

7 MR. CARR: To break it out --

8 THE COURT: Break it out by anticipation and

9 obviousness --

10 MR. CARR: And call out the references.

11 THE COURT: That is one way to do it. The way this

12 is done is it requires them to specify the references. I think

13 it is easier for them to decide if you identify the references

14 and say yes or no.

15 MR. CARR: Okay. That's what we would prefer. I

16 don't want to have to make the jury fill in the reference. We

17 will put the reference in, and they can say yes or no.

18 MR. ROBERTSON: Mr. Carr, let's confer about it if we

19 can. I don't want to get into something that opens up a bigger

20 can of worms. I'd like to have a meet-and-confer and see if we

21 can come to agreement.

22 THE COURT: Be careful for which you ask. Does that

23 take care of what we're doing here?

24 MR. CARR: We have one more issue to bring up with

25 Your Honor, and we have been talking about the exhibits that

1 MR. ROBERTSON: Anything that has to do with

2 litigation will not be there, and we'll give that to them in

3 advance, and if they have any further issue, we'll address that

4 and redact further.

5 THE COURT: I don't see any problem with that.

6 MR. ROBERTSON: The only other issue we have with

7 respect to an exhibit, you may recall there was DX --

8 MR. CARR: We haven't resolved the license agreement

9 yet. We don't agree to that redaction. We think it should be

10 all or nothing, and we don't think --

11 THE COURT: Well, I think it's fair to have a

12 redacted version. Why do you think taking the litigation out

13 of it is -- it's going to have settlement agreement, and

14 they've already been told that it was the product of

15 litigation.

16 MR. CARR: And they had detailed testimony from Mr.

17 Farber about it, so they can argue that. They don't need the

18 license agreements in addition to what testimony is already in

19 the case, and that's why you took it off the screen.

20 THE COURT: I took it off the screen because the

21 litigation stuff was in there, and I thought that was going to

22 be confusing. I didn't have any objection to or wasn't trying

23 to address the terms of the agreement. It was the context in

24 this which the terms were presented which was -- the whereas

25 clauses and the releases, I believe, and there were other